

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Adrian Darby, #342254,)	
)	
Petitioner,)	Civil Action No. 2:16-0714-RMG
)	
v.)	
)	ORDER
Warden, Allendale Correctional Instn.,)	
)	
Respondent.)	
)	

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This matter is before the Court upon the Magistrate Judge's Report and Recommendation ("R & R"). (Dkt. No. 1). The R & R recommends dismissing the Petitioner's habeas petition with prejudice because it is time-barred. No timely objections have been made to the Magistrate Judge's R & R.

Where a Magistrate Judge has submitted to a District Court a R & R, any party may file written objections within 14 days of the issuance of the R & R. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A District Court must "make a *de novo* determination of those portions of the report . . . or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). Where no timely filed objection has been made, the District Court is obligated to review the R & R to confirm that "there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

The Court has reviewed the record in this matter, the R & R of the Magistrate Judge, and the applicable law. The Court finds that the Magistrate Judge has ably and thoroughly addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the R & R (Dkt. No. 1) as the order of this Court and **DISMISSES** the habeas petition.

Certificate of Appealability

The governing law provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies the standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **DENIED**.

AND IT IS SO ORDERED.



Richard Mark Gorgel
United States District Court Judge

May 26, 2016
Charleston, South Carolina